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IN THE EUROPEAN PATENT OFFICE

Applicant : America Online, Inc.
 Appln. No.: PCT/US98/27268
 Int'l Filing Date: 22/12/1998
 Priority Date: 24/12/1997
 Title : ASYNCHRONOUS DATA PROTOCOL

European Patent Office
 PCT/ International Preliminary Examining Authority
 D-80298 Munich, GERMANY

Attention: H. Haas
 Authorized officer/Examiner

RESPONSE TO WRITTEN OPINION

Sir:

The following remarks are respectfully submitted in response to the Written Opinion mailed September 22, 1999.

REMARKS

Reconsideration is requested in view of the following remarks. Claim 1-69 are pending in the present application. Claims 1, 10, 17, 28, 37, 45, 51 and 61 are independent.

SECTION V

In Section V of the Written Opinion, the Examiner alleges that the subject matter of independent claims 1 and 37 does not involve an inventive step over the D1 reference (WO-A-96 42145), as required by Rule 65(1)(2) PCT. The Examiner also alleges that remaining independent claims 10, 17, 28, 45, 51 and 61 are rendered obvious over the D1 reference in view of the File Transfer Protocol (FTP) standard. The Examiner further alleges that the subject matter of the dependent claims is rendered obvious by existing international protocol standards or lie fully within the normal capabilities of a person skilled in the art.

Applicant respectfully disagrees and traverses the allegations set forth by the Examiner. Namely, Applicant submits that each of the independent and dependent claims recites a combination of features, which is neither taught nor suggested by the D1 reference. Furthermore, each combination of features recited in the claims would not have been obvious to

one of ordinary skill in the art from the teachings of the D1 reference and/or any of the protocol standards referred to by the Examiner.

Regarding independent claims 1 and 37, in particular, these independent claims clearly recite "a plurality of identifiers for data objects." Although the Examiner explicitly recognizes this deficiency of the D1 reference in the Written Opinion, the Examiner nevertheless mischaracterizes this claimed feature as a "simple modification" which lies "fully within the normal capabilities of a person skilled in the art." (See page 2 of the Written Opinion) In effect, the Examiner ignores an important advantage of the subject matter recited by claims 1 and 37. Namely, the method and computer-readable medium, as recited in independent claims 1 and 37, respectively, overcome the shortcomings of prior art systems in which a host computer will not start another upload or download for a client device until completing the present data transfer session for that client device. (See page 2, lines 24-30 of the Specification) This claimed feature permits uploads and downloads to occur at a much faster rate as compared to such prior art systems and should not have been dismissed by the Examiner as a "simple modification."

Regarding remaining independent claims 10, 17, 28, 45, 51 and 61, and all the dependent claims, Applicant submits that the Examiner's allegation that such claims do not involve an inventive step is entirely unsupported. Specifically, the Examiner provides no explanation as to how the D1 reference or any of the protocol standards teaches or suggests the combination of features recited in these claims.

In view of the above, Applicant submit that the Examiner has failed to provide a full and reasoned explanation in support of the allegation that the claims do not involve an inventive step. Accordingly, Applicant requests favorable consideration of this issue and an indication that the presented claims recite patentable subject matter.

In addition, Applicant respectfully directs the Examiner's attention to pages 5 and 6 of the D1 reference. The Examiner is requested to appreciate the fact that the D1 reference by its own admission finds applicability only within a broadcast-type transmission system and not within a full-duplex data processing system. As such, the D1 reference does not relate to, and provides no teachings for, transmission systems that transfer data asynchronously between a client device and a host device using a network. Applicant submits, therefore, that the D1

reference relates to a different field of endeavor than the present invention and, thus, fails to teach or suggest the above-discussed claim features for at least this additional reason.

SECTION VII

Based on the foregoing, Applicant submits that the defects in the form or contents of the application noted by the Examiner are rendered moot. In particular, drafting the independent claims in two-part form as suggested by the Examiner is unnecessary since reference D1 fails to teach or suggest the combination of features recited in such independent claims. In addition, describing references D1 and D2 in the background of the present application is unnecessary since neither D1 nor D2 constitutes applicable prior art against the pending claims.

SECTION VIII

Contrary to the Examiner's assertion, Applicant submits that the claims as a whole are clear and concise and are fully supported in the specification and drawings, in accordance with Article 6 PCT.


CONCLUSION

For at least the above reasons, Applicant submits that the claims as presented recite patentable subject matter. Accordingly, favorable consideration is requested.

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Respectfully submitted,

Date: December 22, 1999


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